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MARYLAND COMMISSIONER OF  
FINANCIAL REGULATION

INDUSTRY ADVISORY  
REGULATORY GUIDANCE

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## Maryland's Homeowner Assistance Fund – Updated Guidance for Mortgage Servicers

The Maryland Department of Housing and Community Development (DHCD) launched the Maryland Homeowner Assistance Fund (HAF) in December 2021 to assist Maryland homeowners who have encountered financial difficulties during the COVID-19 pandemic. The Office of the Commissioner of Financial Regulation (OCFR) [previously issued guidance](#) (“2021 Guidance”) regarding HAF on December 27, 2021 and [supplemental FAQs](#) (“2022 FAQs”), issued jointly with DHCD, on February 7, 2022.

OCFR is now providing this updated guidance to: (1) state that HAF should be considered early in the loss mitigation process rather than treated as an option of last resort; (2) amend the 2022 FAQ's to update DHCD HAF processing timeline; and (3) underscore the responsibility of servicers to communicate in a timely manner with DHCD staff (HAF program staff), to adequately train their employees on Maryland rules and mitigation options (including HAF), and to adequately staff customer service centers.

### HAF Funds to be Considered Early in the Loss Mitigation Process

The HAF program is considered a form of loss mitigation and as such all servicers, whether licensed or exempt from licensure, are expected to advise borrowers of the existence of HAF and to fully cooperate with borrowers and HAF program staff throughout the HAF process. As stated in the 2021 Guidance, “Maryland Regulation [09.03.06.20](#) requires a servicer to make borrowers in default aware of loss mitigation options available to them, and to pursue loss mitigation when possible.” While the 2021 Guidance stressed that this regulatory requirement included HAF, OCFR is updating that guidance to indicate servicers should inform borrowers about HAF as soon as possible after default, rather than after exhausting other loss mitigation options.

OCFR's initial 2021 Guidance described the HAF program as a program of last resort for homeowners who are unable to enter into any other loss mitigation option offered by the servicer. Since that time, the HAF program rules have been updated and DHCD no longer requests HAF to be considered as a final option. **Effective immediately, HAF can and should be considered early in the loss mitigation process** and, if appropriate, in conjunction with other loss mitigation options. Through the HAF program, borrowers are eligible for reinstatement funds and many have obtained sufficient HAF funds for full

reinstatement. Reinstatement benefits homeowners, servicers, investors, and our communities by bringing loans current and allowing homeowners to remain in their homes.

Pursuant to 09.03.06.20(A)3(d) and the requirement for servicers to pursue loss mitigation when possible, **the servicer should not submit a Final Loss Mitigation Affidavit in connection with a foreclosure action until a borrower who has applied to HAF has either received a denial of their HAF application or the servicer has received the HAF funds.** If a borrower is approved for HAF funds, and the HAF funds would make the loss mitigation plan more affordable to the borrower, then the servicer should not place a borrower in a plan that does not permit the borrower to make use of HAF funds.

## **Updates to 2022 FAQ's: DHCD Processing Timeline; Safe Harbor**

The 2022 FAQs stated the Commissioner considers 14 days a “reasonable timeline for completion of a HAF application” and servicers who wait 14 days after receiving notice from DHCD that a borrower has applied for HAF may pursue foreclosure if the servicer heard nothing further from DHCD. DHCD's time frame to render a decision on a HAF application depends on numerous variables. As a result, **OCFR's prior guidance on the 14-day reasonable time frame for completion of the HAF process is hereby rescinded.** Servicers are encouraged to regularly communicate with DHCD to determine actual HAF processing times.

Lastly, the 2022 FAQ's included safe harbor provisions that deemed certain conduct to be in compliance with applicable Maryland statutes and regulations. In addition to those safe harbors, a servicer that offers a borrower a modification will be considered in compliance if they provide that borrower an opportunity to receive a HAF determination before accepting or rejecting the modification offer.

## **Responsibility of Servicers to Communicate with DHCD**

The HAF program requires effective and responsive communication between servicers and HAF program staff. Servicers, therefore, should ensure that they are doing the following:

- Promptly responding to inquiries from HAF program staff regarding borrowers who have applied for HAF – to unjustifiably delay a response could be deemed an unfair practice particularly if a delay inhibits a borrower's access to HAF funds; and
- If a borrower is approved for HAF funds, communicating with the borrower and HAF program staff regarding the appropriate method for DHCD to deliver the funds.

## **Responsibility of Servicers to Train Employees and Staff Customer Service Centers**

The OCFR has received consumer complaints suggesting that servicers have not adequately trained employees or staffed their customer service centers. Maryland Regulation [09.03.06.20](#) requires mortgage servicers to “provide trained personnel and telephone facilities sufficient to promptly answer and respond to borrower inquiries regarding their mortgage loans.” While this regulation is specific to communication with borrowers, DHCD is acting on behalf of borrowers, and servicers should treat their communications with HAF program staff as communications from borrowers. Servicers have a responsibility to ensure that they adequately train employees on all aspects of Maryland's HAF program, including OCFR's previous guidance as updated by this guidance. Lack of staff training or capacity resulting in a borrower being

unable to bring their mortgage current using approved HAF funds, or a servicer's unresponsiveness to HAF program staff, may be deemed a violation of applicable laws and regulations.

## Contact

For questions, please contact Assistant Commissioner Shereefat Balogun by phone at 410-230-6390, or by email at [shereefat.balogun@maryland.gov](mailto:shereefat.balogun@maryland.gov).

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*The Office of the Commissioner of Financial Regulation, a division of the Maryland Department of Labor, is Maryland's consumer financial protection agency and financial services regulator. For more information, please visit our website at [www.labor.maryland.gov/finance](http://www.labor.maryland.gov/finance).*



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